



2009-050

STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

TROY KING  
ATTORNEY GENERAL

March 9, 2009

500 DEXTER AVENUE  
MONTGOMERY, AL 36130  
(334) 242-7300  
WWW.AGO.STATE.AL.US

Honorable Carlton H. Utley  
Colbert County Coroner  
Post Office Box 3203  
Muscle Shoals, Alabama 35662

TO THE EXTENT THERE IS A  
CONFLICT, THIS OPINION HAS BEEN  
MODIFIED BY AN OPINION ISSUED  
TO HONORABLE SIDNEY L.  
CHAPMAN, JR., BARBOUR COUNTY  
CORONER, DATED 5-22-15, A.G. NO.  
2015-047.

Coroners - County Commissions -  
Forensic Sciences - Expenses -  
Transportation - Colbert County

Unless otherwise provided by local law, the coroner in each county is responsible for the cost of transportation of bodies for the purpose of forensic examination. These costs should be paid from the expenses allocated to the coroner or by the use of a county automobile used by the coroner for that purpose. If funds are insufficient to meet the costs, the coroner and the county commission should work together to determine the best method for providing transportation of the bodies.

Dear Mr. Utley:

This opinion of the Attorney General is issued in response to your request.

QUESTION

Is Colbert County responsible for the transportation of bodies for the purpose of forensic examination? If not, who is responsible?

FACTS AND ANALYSIS

Sections 11-5-1 through 11-5-13 of the Code of Alabama provide for the method of selection of a county coroner and some of the duties of the office. ALA. CODE §§ 11-5-1 to 11-5-13 (1989). Sections 15-4-1 through 15-4-11 and sections 22-19-80 through 22-19-82 of the Code of Alabama further provide the nature and duties of a coroner. ALA. CODE §§ 15-4-1 to 15-4-11 (1995); ALA. CODE §§ 22-19-80 to 22-19-82 (2006). Other duties of a coroner can be found in other areas such as sections 32-10-9 and 26-16-99 of the Code of Alabama. ALA. CODE § 32-10-9 (1999); ALA. CODE § 26-16-99 (Supp. 2008). These provisions describe the coroner's jurisdiction as the "county" and "in the county." It should be noted that some counties do not have a coroner, but instead use a medical examiner. This opinion, therefore, is not applicable to those counties.

Sections 15-4-1 and 15-4-2 of the Code give the coroner the responsibility for custody of certain dead bodies in the county. Section 15-4-1 of the Code states, in pertinent part, as follows:

(a) When a coroner has been informed that a person has been killed or suddenly died under such circumstances as to afford a reasonable ground for belief that such death has been occasioned by the act of another by unlawful means, he must forthwith make inquiry of the facts and circumstances of such death by taking the sworn statement in writing of the witnesses having personal knowledge thereof and submit the same to a judge of a court of record or a district attorney.

ALA. CODE § 15-4-1 (1995).

Section 15-4-2 states, in pertinent part, as follows:

(a) When a coroner has been informed that a person is dead in the county and that such person died without being attended or examined by a legally qualified physician, the coroner shall forthwith proceed to the place where the dead person is lying, examine the dead body to ascertain the cause of death and report same in the same manner inquests are reported.

(b) When a coroner is unable to determine the cause of death, he may summon any physician or surgeon, who shall make an external post-mortem examination of the dead body and report his opinion of the cause of death to the coroner in writing.

(c) If the surgeon or physician is unable to determine the cause of death from an external postmortem examination and the coroner has reasonable cause to believe that deceased came to his death by unlawful means, the coroner may in such cases order any physician or surgeon to perform an autopsy or internal examination on the dead body, and report the findings of such autopsy to the coroner in writing.

ALA. CODE § 15-4-2 (1995).

This Office has previously determined that sections 15-4-1 and 15-4-2 give the coroner responsibility for the placement, movement, and storage of the body to facilitate external postmortem examinations and autopsies performed by surgeons and physicians as summoned by the coroner. Opinion to Honorable Lesley Vance, Russell County Coroner, dated April 8, 1980, A.G. No. 80-00325. The *Vance* opinion further states that this area of investigation is shared with the Director of Forensic Sciences under section 36-18-2 of the Code, which states, in pertinent part, as follows:

***The duties of the director shall be to make such investigations, including any necessary autopsy, to be performed by physicians licensed to practice medicine in Alabama and recognized and trained in forensic medicine and pathology; provided, however, that the director may waive this requirement temporarily whenever a medical examiner vacancy exists which he is seeking to fill. Said investigations of unlawful, suspicious or unnatural deaths and crimes as are ordered by the Governor, the Attorney General, any circuit judge, or any district attorney in the State of Alabama, and the director and his staff shall cooperate with the coroners, sheriffs and other***

*police officers in Alabama in their investigations of crimes and deaths from unlawful, suspicious or unnatural causes.* The director shall within his discretion visit the scene of any crime in the state for the purpose of securing evidence for the state. The director shall furnish a certified copy of his report of any investigation that the department conducts to the person or persons who ordered the investigation conducted. . . .

ALA. CODE § 36-18-2 (2001) (emphasis added).

This section gives the director of Forensic Sciences the authority to investigate unlawful, suspicious, or unnatural deaths and crimes when ordered onto a case by one of the officials named in the statute, and it also requires the director and his or her staff to cooperate with the coroners, sheriffs, and other police officers in their investigations. Based upon the coextensive duties of the coroner and the director of Forensic Sciences, this Office stated that the coroner has charge of bodies in his or her county except where the director of Forensic Sciences has been ordered to investigate, and then the two must cooperate in the investigation. *Vance* at 1. Accordingly, it is the opinion of this Office that the coroner is generally responsible for the placement, movement, and storage of dead bodies.

The next part of your question is who is responsible for the costs incurred in transporting the bodies to the state forensics laboratory. There are no specific provisions in the Code that require the Department of Forensics Sciences, the coroner, or the county to bear the costs of transporting bodies. As stated above, the coroner is generally responsible for the movement of dead bodies. Thus, the provisions of the law relating to the funding of the office of the coroner must be reviewed to determine whether the cost of transporting bodies is paid from these funds.

Coroners are entitled to limited fees for the performance of specified duties as set forth in sections 12-19-192 and 12-19-193 of the Code. ALA. CODE §§ 12-19-192 & 12-19-193 (2006). These fees generally include a \$7.50 fee for holding an inquest, \$.06 per mile for travel to and from an inquest, \$1.00 for summoning a jury, and \$.25 for each subpoena. ALA. Code § 12-19-192 (2006). The total amount of annual fees that may be paid to the coroner is limited to \$1,200. *Id.* The fees are to be paid from the county treasury. ALA. CODE § 12-19-193 (2006).

This Office has recognized that some counties also have local acts that authorize the county commission to pay from the county funds a salary to the coroner, an expense allowance, both a salary and an expense allowance, or "pay all necessary expenses for the operation of the county coroner's office." See opinions of the Attorney General to Mr. Rickey Stokes, Coroner, Dothan, dated September 24, 1984, A.G. No. 84-00460 at 1; and to Honorable Curtis L. McLellan, Judge of Probate, Lamar County, dated February 17, 1995, A.G. No. 95-00124 at 2. Thus, in some counties the expense reimbursement covers the transportation costs of the coroner.

This Office has determined that even in those counties that are not authorized by a local act to provide an increase in an expense allowance for a coroner, the county may authorize the use of a county automobile for the county coroner to perform the duties of the office. Opinion to Honorable J. Robert Faulk, Attorney, Autauga County Commission, dated May 4, 2005, A.G. No. 2005-123. The *Faulk* opinion recognized that the county commission has general authority to direct, control, and maintain the property of the county and therefore, the county commission, in its discretion, could authorize the use of a county automobile for the county coroner to perform the duties of the office. *Id.* This Office has previously determined that, under the terms of the local act applicable to Mobile County where there is no longer a county coroner, the county must pay for the costs of transporting bodies in the county. Opinion to Honorable Stewart L. Howard, Attorney, City of Citronelle, dated March 7, 2007, A.G. No. 2007-055.

The coroner in Colbert County is entitled to a \$10,000 expense allowance per year from the county general fund, which is "in addition to any and all other compensation, salary, and expense allowances provided by law." 2007 Ala. Acts No. 2007-407, 836. Nothing in the local law applicable to Colbert County specifically states how the cost for transporting bodies for the purpose of forensic examination is to be handled.

Because the coroner in each county is generally responsible for the placement, movement, and storage of dead bodies, the costs of transporting the bodies must be paid from the expenses allocated to the coroner or by the use of a county automobile used by the coroner for that purpose. If the coroner receives an expense allowance set by a local act, only the Legislature has the authority to amend the act to provide for an increase. The coroner and the county commission must work together to determine the best solution for covering the transportation costs incurred by the coroner, whether that is seeking an increase in the expense allowance, the use of a county automobile, or other possible methods to cover the costs

Honorable Carlton H. Utley  
Page 6

of transportation. It is noted that unless otherwise provided by local law, this opinion applies to the coroner in each county, not just the coroner in Colbert County.


CONCLUSION

Unless otherwise provided by local law, the coroner in each county is responsible for the cost of transportation of bodies for the purpose of forensic examination. These costs should be paid from the expenses allocated to the coroner or by the use of a county automobile used by the coroner for that purpose. If funds are insufficient to meet the costs, the coroner and the county commission should work together to determine the best method for providing transportation of the bodies.

I hope this opinion answers your question. If this Office can be of further assistance, please contact me.

Sincerely,

TROY KING  
Attorney General  
By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH  
Chief, Opinions Division

TK/BFS  
757319/129254